IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE FOURTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

-

WRIT PETITION NO : 14250 of 2005

Between:

Smt. P. Manikumari W/o Sri. P.V. Ramakrishna Chowdary
R/o 10th Ward Gumasthalavari STreet, Bhimavaram (West Godavari District)
Andhra Pradesh.

..... PETITIONER

AND

The Deputy Transport Commissioner & Secretary, Regional Transport Authority,
West Godavari District at Eluru

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ, order or direction more particularly a Writ of Mandamus declaring the impugned order of the respondents in proceedings in R. No. 9649/A1/2005, dated 29-06-2005 as illegal, improper and arbitrary and further direct the respondent to release the petitioners Vehicle bearing registration No. TN 58/D-9542 from the coverage of permit NO. 4/90 by issuing clearance certificate.

Counsel for the Petitioner: MR.JOHN RAJENDRA PRASAD

Counsel for the Respondent: GP FOR TRANSPORT

The Court at the admission stage made the following:

ORDER:

This writ petition is filed aggrieved by the order passed by the respondent dated 29.06.2005 refusing to release the vehicle of the petitioner for effecting sale.

According to the petitioner, the vehicle, which has town service permit, is not useful to render services and therefore, she decided to dispose of the same by keeping the permit under reserve. Accordingly, she approached the respondent by making appropriate application seeking release of the vehicle from the permit. Thereafter, the respondent by the impugned order rejected the application of the petitioner on the ground that the petitioner sought to keep the permit under reserve. Aggrieved by the same, the petitioner filed the present writ petition.

At the time of hearing, the learned counsel for the petitioner submitted that the petitioner is prepared to replace the vehicle with another one within six months. Therefore, he sought for a direction to the respondent for release of the vehicle. The learned counsel also

represented that under similar circumstances, this Court granted interim orders directing the respondents therein to release the vehicle from the permit so as to dispose of the same.

The learned Government Pleader for Transport, however, sought to contend that the there is a remedy of appeal under Section 89 of the Motor Vehicles Act, 1988 and therefore, the petitioner has to approach the appellate authority. However, when he was asked to specify the clause under which an appeal would lie against the impugned order, he was not able to specify and in fact conceded that there is no specific provision for refusing to release the vehicle from permit for disposal.

Heard both sides and considered the material on record.

The petitioner is only seeking release of the vehicle, which has town service permit, for disposal. Though it was not represented before the authority that she would replace the vehicle with another one, it is represented before this Court that she would replace the vehicle with another one within six months from date of releasing the vehicle in question.

In the light of the above undertaking, the permit need not be kept in reserve indefinitely. Therefore, the writ petition is disposed of modifying the order passed by the respondent and directing the respondent to release the vehicle on an undertaking being given by the petitioner that the released vehicle would be replaced by another one within six months. If the petitioner fails to replace the vehicle within six months as undertaken by her, it is always open to the respondent-authorities to take appropriate action as provided under law. No costs.

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04.07.2005

Note: Issue CC by tomorrow.

(b/o)

VGB

To

1. The Deputy Transport Commissioner & Secretary, Regional Transport Authority, West Godavari District at Eluru.

2. 2CCs to the Government Pleader for Transport, High Court Buildings, Hyderabad. (OUT)

3. 2CD copies.